

Remarks

Claims 1-32 will remain pending in the application with claim 1 being in independent form. Claims 1, 3-6 and 11-14 have been amended. Claims 2, 7-10 and 15-32 are unchanged.

As an initial matter, Applicant thanks the Examiner for the thorough examination. Claims 1-32 stand rejected under 35 U.S.C. §112 as being non-enabled. In particular, the Examiner contends that the calculation step in claim 1 is inconsistent (the inverse) with the specification. Applicant apologizes for this typographical error and has amended the claim to coincide with the specification. As such, this rejection is believed overcome.

Claims 1 also stands rejected under 35 U.S.C. §112 as being indefinite. In particular, the Examiner contends that the production process efficiency step is unclear. Applicant has amended claim 1 to correct any potential indefiniteness such that this rejection is believed overcome.

Claims 3-6 and 11-14 also stand rejected under 35 U.S.C. §112 as being indefinite for lack of antecedent basis. These claims have been amended as suggested by the Examiner. As such, this rejection is believed overcome.

Claims 1-32 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Applicant has amended claim 1 to require the use of a computer and as such, this rejection is believed overcome.

Claims 1-22, 26 and 30-32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No 4,404,639 to McGuire in view of U.S. Patent No. 5,317,503 to Inoue further in view of Body Shop Business article entitled “More Than A Desk Job” by Edwards. Claims 23-25 and 27-29 stand rejected under 35 U.S.C. §103(a) as

being unpatentable over McGuire in view of Inoue further in view of Edwards and in view of Official Notice.

The Examiner has properly noted that some of the limitations claimed in claim 1 are known in the industry. For example, examining and estimating vehicles is known. Also, tracking vehicle production start and finish periods is known. Further, tracking certain items, such as a technician's pay, based on hours has also been done (as shown in Edwards). However, the Examiner fails to appreciate the uniqueness and non-obviousness of the claimed production process efficiency of the subject invention.

Although the production process efficiency is calculated using hours, this is not the only unique aspect of this calculation. The Applicant contends, and the Examiner has failed to demonstrate, that the combination of determining the total shop production hours and calculating the production process efficiency for a completed repair process by dividing the estimated total labor hours by the total shop production hours is not shown or contemplated by the prior art of record.

The fact that Edwards measures the total hours paid to technicians divided into the total labor sales does NOT provide the same efficiency measurement that the claimed invention is achieving. In fact, the calculation in Edwards will produce erroneous measurements that the subject invention is specifically designed to eliminate. As discussed in paragraphs 0083 and 0084 of the specification of the subject application, various erroneous measurements can result if the method of the claimed invention is not followed. Analyzing the total hours paid to technicians and the total labor sales, as suggested by Edwards, is too generic and fails to focus on important parameters, such as when the repair shop opened and closed during the vehicle production days or the estimated total labor

hours for the specific repair process. As such, the process of Edwards will not measure the particular production process efficiency that the claimed invention is designed to produce. As supported by the table in Figure 13 and paragraph 0083 of the subject patent application, the method of the claimed invention is designed to calculate a specific percentage efficiency that was previously masked by other inefficiencies.

Accordingly, independent claim 1 is believed to be in condition for allowance. Claims 2-32 are also believed to be in condition for allowance as these claims depend from the unique and non-obvious features of claim 1.

The remaining references cited but not applied to the claims have been considered. Since the Examiner has apparently considered these references as less pertinent than the above discussed reference(s), further discussion of the non-applied references, at this time, is considered unnecessary. However, it is respectfully submitted that the claims in the subject patent application patentably define over all references of record either independently or in combination.

Accordingly, it is respectfully submitted that the Application, as amended, is now presented in condition for allowance, which allowance is respectfully solicited. The Commissioner is authorized to charge our Deposit Account No. 08-2789 in the name of Howard & Howard Attorneys. P.C. for any fees due or credit the account for any overpayment.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS, P.C.

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